

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Community Communications Company)	
and Affiliates)	File No. EB-02-TS-282
)	
Operator of Cable Systems in the States of:)	
)	
Arkansas, Louisiana and Mississippi)	
)	
Request for Waiver of Section 11.11(a) of the)	
Commission's Rules)	

ORDER

Adopted: November 21, 2002**Released: November 29, 2002**

By the Chief, Technical and Public Safety Division, Enforcement Bureau:

1. In this *Order*, we grant Community Communications Company and Affiliates ("Community") temporary waivers of Section 11.11(a) of the Commission's Rules ("Rules") for 26 of its 27 cable television systems in the three above-captioned states. Specifically, we grant Community a temporary, 12-month waiver of Section 11.11(a) of the Rules for one cable television system and temporary, 24-month waivers of Section 11.11(a) of the Rules for 25 other cable television systems. Also, we deny Community a waiver of Section 11.11(a) of the Rules for the cable television system in Monticello, Arkansas. Section 11.11(a) requires cable systems serving fewer than 5,000 subscribers from a headend to either provide national level Emergency Alert System ("EAS") messages on all programmed channels or install EAS equipment and provide a video interrupt and audio alert on all programmed channels and EAS audio and video messages on at least one programmed channel by October 1, 2002.¹

2. The Cable Act of 1992 added new Section 624(g) to the Communications Act of 1934 ("Act"), which requires that cable systems be capable of providing EAS alerts to their subscribers.² In 1994, the Commission adopted rules requiring cable systems to participate in EAS.³ In 1997, the

¹ 47 C.F.R. § 11.11(a).

² Cable Television Consumer Protection and Competition Act of 1992, Pub. L. No. 102-385, § 16(b), 106 Stat. 1460, 1490 (1992). Section 624(g) provides that "each cable operator shall comply with such standards as the Commission shall prescribe to ensure that viewers of video programming on cable systems are afforded the same emergency information as is afforded by the emergency broadcasting system pursuant to Commission regulations" 47 U.S.C. § 544(g).

³ *Amendment of Part 73, Subpart G, of the Commission's Rules Regarding the Emergency Broadcast System, Report and Order and Further Notice of Proposed Rule Making*, FO Docket Nos. 91-171/91-301, 10 FCC Rcd 1786 (1994) ("First Report and Order"), reconsideration granted in part, denied in part, 10 FCC Rcd 11494 (1995).

Commission amended the EAS rules to provide financial relief for small cable systems.⁴ The Commission declined to exempt small cable systems from the EAS requirements, concluding that such an exemption would be inconsistent with the statutory mandate of Section 624(g).⁵ However, the Commission extended the deadline for cable systems serving fewer than 10,000 subscribers to begin complying with the EAS rules to October 1, 2002, and provided cable systems serving fewer than 5,000 subscribers the option of either providing national level EAS messages on all programmed channels or installing EAS equipment and providing a video interrupt and audio alert on all programmed channels and EAS audio and video messages on at least one programmed channel.⁶ In addition, the Commission stated that it would grant waivers of the EAS rules to small cable systems on a case-by-case basis upon a showing of financial hardship.⁷ The Commission indicated that waiver requests must contain at least the following information: (1) justification for the waiver, with reference to the particular rule sections for which a waiver is sought; (2) information about the financial status of the requesting entity, such as a balance sheet and income statement for the two previous years (audited, if possible); (3) the number of other entities that serve the requesting entity's coverage area and that have or are expected to install EAS equipment; and (4) the likelihood (such as proximity or frequency) of hazardous risks to the requesting entity's audience.⁸

3. On July 2, 2002, Community filed a request for temporary, 18-month waivers and 36-month waivers of Section 11.11(a) for 27 small, rural cable systems in the three captioned states. In support of this request, Community states that 25 of the cable systems serve between 26 and 621 subscribers. Community also states that it seeks to interconnect its two larger systems in Warren and Monticello, Arkansas system which serve 1,772 and 3,260 subscribers, respectively. Based on price quotes provided by EAS equipment manufacturers, Community estimates that it would cost a total of approximately \$10,000 to install EAS equipment at each of these systems for a total cost of \$270,000. Community asserts that this cost will impose a substantial financial hardship on it and provides its financial statements for 2000 and 2001 in support of this assertion. In addition, Community submits that its subscribers will continue to have ready access to national EAS information from other sources, including its cable systems. In this regard, Community notes that its subscribers currently have access to national EAS messages on more than 40 percent of all programmed channels. Community also submits that its subscribers will have access to EAS information through over-the-air reception of broadcast television and radio stations.

4. Based upon our review of the financial data and other information submitted by Community, we find that a waiver of Section 11.11(a) for the Monticello, Arkansas cable system is not warranted. However, we conclude that a temporary, 12-month waiver of Section 11.11(a) for Community's Warren, Arkansas cable system is warranted and that temporary, 24-month waivers of

⁴ *Amendment of Part 73, Subpart G, of the Commission's Rules Regarding the Emergency Broadcast System, Second Report and Order*, FO Docket Nos. 91-171/91-301, 12 FCC Rcd 15503 (1997) ("*Second Report and Order*").

⁵ *Id.* at 15512-13.

⁶ *Id.* at 15516-15518.

⁷ *Id.* at 15513.

⁸ *Id.* at 15513, n. 59.

Section 11.11(a) for the other 25 cable systems is warranted.⁹ In particular, the estimated \$10,000 cost to install EAS equipment at each of the remaining 26 cable systems could impose a financial hardship on Community.

5. We note that the Commission recently amended the EAS rules to permit cable systems serving fewer than 5,000 subscribers to install FCC-certified decoder-only units, rather than both encoders and decoders, if such a device becomes available.¹⁰ Based on comments from equipment manufacturers, we anticipate that such a decoder-only system could result in significant cost savings to small cable systems.¹¹

6. Accordingly, **IT IS ORDERED** that, pursuant to Sections 0.111, 0.204(b) and 0.311 of the Rules,¹² Community Communications Company and Affiliates **IS GRANTED** a waiver of Section 11.11(a) of the Rules until October 1, 2003 for one cable television system in Warrenton, Arkansas and **IS GRANTED** a waiver of Section 11.11(a) of the Rules until October 1, 2004 for 25 cable television systems in the states of Arkansas, Louisiana and Mississippi as listed in Attachment A.

7. **IT IS FURTHER ORDERED** that Community Communications Company and Affiliates place a copy of this waiver in its system files.

8. **IT IS FURTHER ORDERED** that a copy of this *Order* shall be sent by Certified Mail Return Receipt Requested to counsel for Community Communications Company and Affiliates, Christopher C. Cinnamon, Esq., Cinnamon Mueller, 307 North Michigan Avenue, Suite 1020, Chicago, Illinois 60601.

FEDERAL COMMUNICATIONS COMMISSION

Joseph P. Casey
Chief, Technical and Public Safety Division
Enforcement Bureau

⁹ The 12-month waiver will extend from October 1, 2002, until October 1, 2003, and the 24-month waiver will extend from October 1, 2002, until October 1, 2004. We clarify that the waivers we are granting also encompass the EAS testing and monitoring requirements.

¹⁰ *Amendment of Part 11 of the Commission's Rules Regarding the Emergency Alert System*, EB Docket 01-66, FCC 02-64 at ¶ 71 (released February 26, 2002).

¹¹ One manufacturer estimated that an EAS decoder-only system can reduce the cost by 64% over what a cable operator would spend for an encoder/decoder unit. *Id.* at ¶ 70.

¹² 47 C.F.R. §§ 0.111, 0.204(b) and 0.311.

Attachment A

Community Communications Company and Affiliates

Cable Systems:

Waivers:

Arkansas

Monticello, Arkansas
Warren, Arkansas
Amity, Arkansas
Arkansas City, Arkansas
Bismarck, Arkansas
Carpenter's Dam, Arkansas
Curtis, Arkansas
Donaldson, Arkansas
East Camden, Arkansas
Eudora, Arkansas
Gillett, Arkansas
Glenwood, Arkansas
Gould, Arkansas
Hooker, Arkansas
Jones Mill, Arkansas
Kingsland, Arkansas
Magic Springs, Arkansas
Norman, Arkansas
Rison, Arkansas
Royal Arkansas
Garland County, Arkansas
Saline County, Arkansas
Star City, Arkansas
Tillar, Arkansas
Watson Arkansas
Warrenton Arkansas

No Waiver Granted.
Granted Until October 1, 2003
Granted Until October 1, 2004
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Granted Until October 1, 2003

Louisiana

Kilbourne, Louisiana

Granted Until October 1, 2004

Mississippi

Rosedale, Mississippi

Granted Until October 1, 2004